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(2)

Nos. 91-644 and 91-6097

In the Supreme Court of the United States

OCTOBER TERM, 1991

RONALD L. DAVENPORT, PETITIONER

v.

UNITED STATES OF AMERICA

BETTY L. DAVENPORT, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITIONS FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTIONS PRESENTED

1. Whether "structuring" cash bank deposits in amounts of less than $10,000 with the purpose of preventing a bank from filing the currency transaction report required for deposits of $10,000 or more violates the money laundering statute, 31 U.S.C. 5324(3).

2. Whether 31 U.S.C. 5324(3) is unconstitutionally vague.

3. Whether it is a defense to a structuring charge under 31 U.S.C. 5324(3) that the defendant did not know that structuring cash bank deposits to prevent a bank from filing a currency transaction reporting form was a crime.

4. Whether petitioners' explanations of where they obtained the cash used in the structured deposits were admissible.

5. Whether petitioners' selective refusal to answer questions in non-custodial interviews with an IRS agent was admissible against them, when they had been advised prior to the interview that they did not have to answer questions but that their answers could be used against them.

6. Whether the court of appeals erred in holding that any error in admitting petitioners' selective refusal to answer certain questions asked by the IRS agent was harmless beyond a reasonable doubt.

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OPINION BELOW

The court of appeals' opinion (Pet. App. A5-A18)[1] is reported at 929 F.2d 1169.

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[1] The two petitions in this case are almost identical. All citations to the petition and appendix are to No. 91-644.

JURISDICTION

The judgment of the court of appeals was entered on April 9, 1991. A petition for rehearing was denied on September 5, 1991 (Pet. App. A1-A2). The petition for a writ of certiorari in No. 91-6097 was filed on October 15, 1991. The petition for a writ of certiorari in No. 91-644 was filed on October 17, 1991. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

After a jury trial in the United States Distirct Court for the Southern District of Indiana, petitioners were each convicted on 11 counts of structuring cash transactions, in violation of 31 U.S.C. 5324(3), and one count of conspiracy to do so. Petitioners were sentenced to concurrent terms of 12 months' imprisonment on each count. As to each petitioner, the court of appeals affirmed the conspiracy conviction and one of the substantive convictions, but vacated the ten other substantive convictions.

1. Sometime before November 5, 1987, petitioners Ronald L. and Betty L. Davenport obtained $100,000 from an undetermined source. Between November 5 and November 19, they made ten separate cash deposits in multiple branches of two banks in which they had accounts. Each of the deposits was less than $10,000 in amount, and the total amount deposited was $81,500. Under 31 U.S.C. 5313(a) and regulations issued thereunder, banks must report to the Internal Revenue Service any cash deposit of $10,000 or more. Those regulations, at the time of petitioners' deposits and today, specify that if multiple deposits are made on the same day, the bank must aggregate them to determine whether the $10,000 thres-

hold has been crossed. 31 C.F.R. 103.22(a)(1) (1987). Several of petitioners' deposits were made at different branches of the same bank on the same day, resulting in a total deposit of more than $10,000 in a single bank on a single day. Those deposits were duly reported to the IRS by the bank. Pet. App. A9-A10.

An IRS agent was assigned to investigate petitioners' patterns of deposits. Before interviewing Betty Davenport—in a non-custodial setting—the agent advised her that he could not compel her to answer any questions, but "that anything which you say and any documents you submit may be used against you in any criminal proceeding which may be undertaken." [2] The agent then asked her whether she understood that advice and whether she wished to be interviewed. She indicated that she did. 2 Tr. 84. In response to the agent's questions, she stated that the deposits were part of a $100,000 inheritance that her husband had received from his father, who had died three months before the deposits were made. She said that

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[2] The complete text of the agent's warning to her is as follows (2 Tr. 83):

> As a special agent one of my functions is to investigate the possibility of criminal violations of the Internal Revenue laws and related offenses. In connection with my investigation I would like to ask * * * you some questions. However, first I advise you that under the Fifth Amendment to the Constitution of the United States I cannot compel you to answer any questions or to submit any information if such answers or information might tend to incriminate you in any way. I also advise you that anything which you say and any documents you submit may be used against you in any criminal proceeding which may be undertaken. I advise you further that you may, if you wish, seek the assistance of any attorney before responding.

the inheritance had been received by check and that the check had been cashed. She admitted that one purpose of making separate deposits was to avoid triggering the banks' obligation to report a cash transaction exceeding $10,000 to the IRS. Interspersed with those responses, however, she refused to tell the agent the name of her husband's father and refused to name the bank where the inheritance check had been cashed. Pet. App. A9-A10; 2 Tr. 93-98.

Mr. Davenport, when questioned and similarly advised that he did not have to answer the agent's questions, repeated his wife's explanation about the inheritance. But whereas she claimed that the inheritance was received in the form of a check that was cashed before making the deposits, he claimed that the inheritance had been in the form of cash, discovered in a safe in the house where his father lived at the time of his death. He also stated that he still had some of the cash from the inheritance in the trunk of his car. Like his wife, however, he selectively refused to answer certain of the agent's questions, including questions about the address of the house where the safe was located and the name of the women who allegedly had been living with Ronald Davenport's father at the time of his death. Pet. App. A10; 2 Tr. 100-104.

2. Section 5324(3) of Title 31 provides that no person, "for the purpose of evading [a financial institution's] reporting requirements * * * with respect to such transaction" shall "structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with one or more domestic financial institutions." Section 5322 of the same Title provides that a "willful" violation of Section 5324(3) is a criminal offense. The first count of the 12-count

indictment charged petitioners with conspiracy to violate 31 U.S.C. 5324(3), in violation of 18 U.S.C. 371. The second count charged that petitioners' conduct in making ten deposits of less than $10,000 constituted "structuring," and violated Section 5324(3). Each of the remaining ten counts charged a single deposit as a separate violation of that statute. Pet. App. A10.

At trial, the IRS agent testified concerning petitioners' statements in the interviews, including their refusal to answer questions concerning some of the details of the supposed inheritance from Ronald Davenport's father. In addition, the government introduced evidence showing that Ronald Davenport's father spent the last six months of his life living in a car, had died in poverty, was buried at public expense, and left no known inheritance. The government also introduced evidence that Betty Davenport was a bank teller, and that before making the deposits she had inquired about the bank's practice with regard to reporting cash transactions. Pet. App. A10.

3. The court of appeals affirmed petitioners' conspiracy convictions. With respect to the substantive counts, however, the court held that the unit of prosecution under Section 5324 was the structuring of a transaction, not the making of individual cash deposits. The court thus affirmed petitioners' convictions on the single count that charged all ten deposits as a violation of the statute, but reversed petitioners' convictions on those counts that each charged an individual deposit as a violation. Pet. App. A10-A12.

a. Petitioners argued to the court of appeals that they had committed no offense. According to petitioners, because they succeeded for the most part in depositing less than $10,000 each day into any one bank, the banks incurred no obligation to report the trans-

actions under the then-existing regulations. To be sure, they did in fact trigger the reporting requirement when they made several under-$10,000 deposits in different branches of the same bank on the same day. Their position at trial, however, was that those multiple deposits were due to an oversight. Their intention, which they were largely successful in carrying out, was to avoid triggering the reporting requirements. Pet. App. A12. Thus, they argued, they sought to "avoid" the reporting requirement, rather than "evade" it.

The court of appeals rejected petitioners' contention. The court noted that under petitioners' argument, they may not have sought to violate 31 U.S.C. 5324(1), which makes it an offense to "cause or attempt to cause a domestic financial institution to fail to file a [currency transaction] report." Insofar as they had kept any bank from incurring a reporting obligation, their structuring of the transaction had eliminated their liability under that provision, which focuses on aiding and abetting the bank's violation of the reporting requirement. Petitioners, however, were prosecuted for violating 31 U.S.C. 5324(3), which makes it an offense to "structure * * * any transaction with one or more domestic financial institutions" for "the purpose of evading the reporting requirements." That provision does not impose aiding and abetting liability on money launderers that is derivative of a bank's failure to file a required report. Instead, its aim is "to prevent people from * * * defeating the goal of the requirement that large cash deposits be reported to the Internal Revenue Service by breaking their cash hoard into enough separate deposits to avoid activating the requirement." Pet. App. A13. Thus, petitioners' success in avoiding trig-

gering the banks' reporting obligations provided no reason to believe that petitioners had not violated Section 5324(3). The court rejected petitioners' attempt to analogize their conduct to tax avoidance: "Tax avoidance is lawful; money laundering is not." Pet. App. A14.

The court of appeals also rejected petitioners' contention that 31 U.S.C. 5324(3) was unconstitutionally vague at the time of petitioners' violation, which occurred before the Treasury Department had promulgated a definition of "structuring" in its regulations. The court ruled that the statutory context gave the term a precise meaning. "When read together with subsection (1) and the basic requirement of evasion, 'structur[ing] any transaction' means altering the form of the transaction in order to avoid activating the bank's duty to file a currency transaction report." Pet. App. A14. In light of the government's concession that the statute requires it to prove that a defendant knew of the reporting requirements and was deliberately seeking to evade them by making multiple deposits, the court held that the statute was not unconstitutionally vague. Any defendant who did not know of the bank's reporting requirements, the court explained, would not have the requisite knowledge and could not be convicted. *Ibid.*

b. The court of appeals rejected petitioners' contentions relating to the admission of their statements to the IRS agent. First, the court rejected their claim that their account of how they got the money was irrelevant to the structuring charge. The court reasoned that "[t]he shadier the source [of the cash], the greater [petitioners'] motive to conceal the money from the authorities by taking measures to thwart the reporting requirements." Pet. App. A15.

Second, the court rejected petitioners' claim that the admission of their selective refusal to answer some of the IRS agent's questions violated their privilege against compulsory self-incrimination, as well as their right not to be enticed into doing so by the promise that they could refuse to answer questions. The court ruled that, once petitioners decided to answer the IRS agent's questions and "started down this path of self-exculpation, any statement they made—including 'I won't tell you'—was fair game." Pet. App. A16. While a person in custodial interrogation can begin to answer questions and then invoke his right to refuse to answer under *Miranda* v. *Arizona*, 384 U.S. 436 (1966), the court of appeals distinguished this case because petitioners were not subjected to custodial interrogation. The IRS agent's statement that petitioners could elect not to answer his questions had merely offered petitioners the option to remain silent altogether; the agent did not promise that if they decided to answer his questions, he would refrain from testifying to their full range of responses, including their selective refusal to answer. Pet. App. A16-A18.

Finally, the court of appeals ruled that, even if it was error to admit petitioners' refusal to answer certain questions, the error was harmless beyond a reasonable doubt. "No rational jury could have acquitted either defendant even if the jury believed the story about the inheritance. Long before they clammed up, [petitioners] admitted that they had acted with the intention of preventing the filing of currency transaction reports." Pet. App. A18.

4. Five judges voted to grant the petition for rehearing en banc. Chief Judge Bauer, joined by Judge Ripple, wrote an opinion dissenting from the denial of rehearing en banc and expressing the view that it

was improper to admit petitioners' refusal to answer certain of the agent's questions. Pet. App. A2-A3.

ARGUMENT

1. Petitioners argue (Pet. 14-16) that the court of appeals erred when it interpreted Section 5324(3) to apply to their attempt to "avoid" triggering any bank's reporting obligation. In their view, Section 5423(3) applies only where the structurer's purpose was to prevent the bank from recognizing and complying with an existing reporting requirement, not where the structurer's purpose was to avoid triggering a reporting requirement altogether.

Prior to the enactment of 31 U.S.C. 5324, the courts of appeals were divided over whether a depositor who "structured" cash bank deposits—*i.e.*, divided up the deposits so as not to trigger a bank's reporting obligations—could be criminally liable as an accessory for the bank's failure to report the cash transaction. Several courts rejected attempts to impose criminal liability on depositors who structured their deposits, reasoning that accessory liability could not be grounded in circumstances where the financial institution was not obligated (because of the structuring) to file a currency transaction report or because the statute then in force did not provide depositors with fair warning that structuring was illegal. See, *e.g.*, *United States* v. *Larson*, 796 F.2d 244, 246-247 (8th Cir. 1986); *United States* v. *Varbel*, 780 F.2d 758, 760-763 (9th Cir. 1986); *United States* v. *Denemark*, 779 F.2d 1559, 1561-1564 (11th Cir. 1986); *United States* v. *Anzalone*, 766 F.2d 676, 679-683 (1st Cir. 1985). Other courts of appeals affirmed structuring convictions on an accessory-liability or similar theory. See, *e.g.*, *United States* v. *Heyman*, 794 F.2d 788, 790-793 (2d Cir.) (aider and abettor and conspiracy li-

ability), cert. denied, 479 U.S. 989 (1986); *United States* v. *Cook*, 745 F.2d 1311, 1314-1316 (10th Cir. 1984) (aider and abettor liabiilty), cert. denied, 469 U.S. 1220 (1985); *United States* v. *Tobon-Builes*, 706 F.2d 1092, 1096-1101 (11th Cir. 1983) (aider and abettor liability).

Section 5324(3) was enacted to resolve that conflict. The Senate Report explained that the new provision "would codify *Tobon-Builes* and like cases and would negate the effect of *Anzalone*, *Varbel*, and *Denemark*." Furthermore, the new provision "would create the offense of structuring a transaction to evade the reporting requirements, without regard to whether an individual transaction is, itself, reportable under the Bank Secrecy Act." S. Rep. No. 433, 99th Cong., 2d Sess. 22 (1986); see also H.R. Rep. No. 746, 99th Cong., 2d Sess. 18-20 (1986).

The court of appeals in this case was correct in concluding that Section 5324(3) criminalized attempts to avoid triggering any bank's reporting requirement by structuring cash deposits, *i.e.*, breaking down the deposits into amounts less than $10,000. The term "structuring" had an established meaning from the case law to which Congress specifically referred in enacting Section 5324(3). As the court of appeals reasoned, petitioners' reading, under which "structuring" for the purpose of avoiding triggering any bank's reporting requirement would not be within the reach of Section 5324(3), would have the effect of reading Section 5324(3) entirely out of the statute. Pet. App. A13-A14.

There is no conflict among the courts of appeals concerning the interpretation of Section 5324(3), and petitioners do not suggest that one exists. Every court of appeals that has considered the question has agreed with the Seventh Circuit's interpretation in

this case. See *United States* v. *Dashney*, 937 F.2d 532, 537-540 (10th Cir. 1991), cert. denied, 112 S. Ct. 402 (1991); *United States* v. *Hoyland*, 903 F.2d 1288, 1289-1292 (9th Cir. 1990); *United States* v. *Scanio*, 900 F.2d 485, 490-491 (2d Cir. 1990).

2. Petitioners argue (Pet. 16-17) that the court of appeals' interpretation of Section 5324(3) renders it unconstitutionally vague.

As an initial matter, petitioners lack standing to argue that Section 5324(3) is unconstitutionally vague in some of its potential applications, since it is clear that the statute proscribes the structuring of deposits that petitioners engaged in. See *Village of Hoffman Estates* v. *Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 494-495 (1982) ("[A]ssuming the enactment implicates no constitutionally protected conduct, * * * [a] plaintiff who engages in some conduct that is clearly proscribed cannot complain of the vagueness of the law as applied to the conduct of others."). Moreover, there is nothing ambiguous or vague about the scope of Section 5324. The term "structuring" developed a definite meaning in the case law that preceded the enactment of the provision, and the common meaning of the phrase "evading the reporting requirements" gives adequate notice that petitioners' conduct was proscribed. Finally, the requirement that the structurer know that the bank has a reporting obligation that is triggered by large cash deposits, *i.e.*, the requirement that the structurer act "willfully" to evade the reporting requirement, mitigates any uncertainty in the language of the statute. See *Hoffman Estates*, 455 U.S. at 499. The only other court of appeals to consider the question likewise has rejected a vagueness challenge to Section 5324. See *United States* v. *Hoyland*, *supra*.

3. Petitioners argue (Pet. 3-14) that they were convicted despite their claims that they mistakenly thought their actions were lawful, and that this Court's decision in *Cheek* v. *United States*, 111 S. Ct. 604 (1991), therefore requires reversal.[3] They point out that 31 U.S.C. 5322 provides that a violation of Section 5324 is a criminal offense only if committed "willfully," and they argue that their conduct was not "willful" unless they knew that it was against the law. They concede (Pet. 4) that they intended to structure the deposits to avoid triggering the banks' reporting obligation, but claim that they believed that such conduct was not a violation of the statute.

It has long been settled that ignorance of the law does not excuse its violation. As this Court's opinion in *Cheek* recognized, that rule "is deeply rooted in the American legal system." 111 S. Ct. at 609 (citing *United States* v. *Smith*, 18 U.S. (5 Wheat.) 153, 182 (1820) (Livingston, J., dissenting); *Barlow* v. *United States*, 32 U.S. (7 Pet.) 404, 411 (1833); *Reynolds* v. *United States*, 98 U.S. 145, 167 (1878); *Shevlin-Carpenter Co.* v. *Minnesota*, 218 U.S. 57, 68 (1910); *Lambert* v. *California*, 355 U.S. 225, 228 (1957); *Liparota* v. *United States*, 471 U.S. 419, 441 (1985) (White, J., dissenting); O. Holmes, *The Com-*

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[3] There was plainly sufficient evidence from which a reasonable jury could have found that petitioners believed their conduct to be unlawful; their false story about the inheritance alone would have provided a basis for such a finding. However, the jury was instructed that, although the government had to prove "that the defendant knew of the transaction reporting requirements and voluntarily and intentionally structured transactions to avoid the reporting requirement," the government was "not required to prove that the defendant knew that structuring transactions was illegal." See 3 Tr. 183.

mon Law 47-48 (1881)). "The word 'wilfull,' even in criminal statutes, means no more than that the person charged with the duty knows what he is doing. It does not mean that, in addition, he must suppose that he is breaking the law." *American Surety Co.* v. *Sullivan*, 7 F.2d 605, 606 (2d Cir. 1925) (L. Hand, J.); see also *Liparota*, 471 U.S. at 425 n.9.

Nothing in *Cheek* altered that general rule, as applied to non-tax cases. Instead, *Cheek* reaffirmed a series of decisions in which the Court had recognized that Congress intended "an exception to the traditional rule," 111 S. Ct. at 609, applicable to criminal tax offenses. Due to "the complexity of the tax laws," *ibid.*, the government must prove that the defendant engaged in "the voluntary, intentional violation of a known legal duty" in order to obtain a conviction for certain criminal tax offenses. *Ibid.* In particular, the court held that, under the "special treatment of criminal tax offenses," *ibid.*, the government must negate a tax defendant's "claim of ignorance of the law or a claim that because of a misunderstanding of the law, he had a good-faith belief that he was not violating any of the provisions of the tax laws." 111 S. Ct. at 610-611.

Petitioners were not prosecuted for income tax violations. As the court of appeals pointed out, petitioners "are not people trying to minimize their taxes by finding such loopholes as the law allows," but are instead "trying to conceal the existence of a large amount of cash from the government." Pet. App. A14. The language and legislative history of Section 5324(3) demonstrate that Congress intended to create no special state-of-mind requirements for that statute. So long as petitioners acted "willfully" in the ordinary sense of that term—*i.e.*, they intended to

structure their deposits to avoid triggering the reporting requirement—they acted with the intent specified for violation of the statute. Only one other court of appeals has expressly considered the application of *Cheek* to structuring cases, and that court, like this one, has held that *Cheek* "involves only certain criminal tax statutes, and we see no reason to extend similar statutory interpretation into the straightforward currency reporting requirements." *Dashney*, 937 F.2d at 540.

4. Petitioners reassert (Pet. 17-20) their claim that the trial court erred in admitting evidence respecting the source of the cash used in the structuring. Petitioners mischaracterize the court of appeals' opinion as holding that the evidence was admissible to show that the money was stolen, and petitioners claim that that "bad act" was not proved by a preponderance of the evidence, as required by *Huddleston* v. *United States*, 485 U.S. 681 (1988). Contrary to petitioners' interpretation, however, the evidence of the source of the funds was admitted not to show a specific bad act in the acquisition of the funds, but rather to shed light on the motive for dividing up the cash into deposits of less than $10,000. If, as the evidence showed, the cash had a source that petitioners sought to conceal (by concocting the inheritance story), then that made it more likely that the purpose of the structuring was to evade the banks' reporting requirements and thereby prevent the IRS from learning about the money. The "bad act" admitted under Rule 404(b) was petitioners' effort to conceal the source of the cash, which occurred during their discussions with the IRS agent. As to that "bad act," there was never any question that the conversations with the agent occurred substantially as the agent recounted them.

5. Petitioners argue (Pet. 20-26) that the warnings given by the IRS agent implied that their selective refusal to answer certain of the agent's questions would not be used against them.

As an initial matter, despite petitioners' references to the privilege against compelled self-incrimination, that privilege was not implicated in this case. In *Jenkins* v. *Anderson*, 447 U.S. 231 (1980), this Court held that the Fifth Amendment is not violated by the use of defendant's pre-arrest silence against him at trial. "The Fifth Amendment guarantees an accused the right to remain silent during his criminal trial, and prevents the prosecution from commenting on the silence of a defendant who asserts the right." 447 U.S. at 235. The Fifth Amendment does not preclude the prosecution from using a defendant's pre-arrest silence against him, even though, as *Jenkins* recognized, this may put pressure on a defendant to speak up rather than remain silent prior to his arrest. *Id.* at 236-237.

In this case, it is undisputed that petitioners' interviews took place in a non-coercive, non-custodial setting. Thus, petitioners had no right grounded in the Self-Incrimination Clause to remain silent, and that Clause provided them with no protection against introduction of and comment upon their selective refusal to answer the agent's questions.

As the court of appeals recognized, however, the Due Process Clause could preclude admission of petitioners' refusal to answer certain of the IRS agent's questions if the representation had been made to them that they could selectively choose not to answer some of his questions and their silence would not be used against them. That is the rationale employed in a number of this Court's decisions dealing with a prosecutor's comment on the defendant's silence at trial,

or during a custodial interrogation, after the defendant had been advised that this silence would not be used against him. See *Wainwright* v. *Greenfield*, 474 U.S. 284, 291 (1986); *Doyle* v. *Ohio*, 426 U.S. 610 (1976); *Johnson* v. *United States*, 318 U.S. 189, 197 (1943).

As the court of appeals recognized, none of those decisions rested on any right of a potential defendant "to weave a tapestry of evasions," Pet. App. A17-A18, and there was thus nothing fundamentally unfair about using petitioners' highly selective refusal to answer certain questions against them. Once petitioners started down the path of presenting an exculpatory explanation to the IRS agent, any statements they made, including their selective refusal to tell the agent details that would allow him to investigate the truth of their stories, were "fair game" for use against them. Pet. App. A16. The situation is thus analogous to that in *Anderson* v. *Charles*, 447 U.S. 404, 408 (1980), which held that cross-examination respecting inconsistent post-arrest statements "makes no unfair use of silence, because a defendant who voluntarily speaks after receiving *Miranda* warnings has not been induced to remain silent." Likewise, in this case, petitioners' election not to answer certain of the IRS agent's questions was not because they had been "induced to remain silent" but rather because they decided that to answer would allow the agent to investigate their inheritance story.

Moreover, the court of appeals correctly determined (Pet. App. A18) that the "warnings" given by the IRS agent did not include any representation to petitioners that their selective refusal to answer certain questions would not be used against them. The record shows that petitioners were told that the agent could not coerce them to answer his questions, but they were

warned that "anything which you say and any documents you submit may be used against you." See note 2, *supra*. Once they had themselves consented to the interview—and especially in the absence of any indication during the interview that they intended to revoke that consent and assert their right to remain silent—the warning clearly informed them that "anything" that they said, including their selective refusal to answer the agent's questions, would be used against them.

6. Even if there were some doubt whether petitioners' selective refusal to answer certain questions was admissible evidence, the issue in this case would not warrant review by this Court in light of the court of appeals' holding (Pet. App. A18) that any error in that regard was harmless beyond a reasonable doubt. That is a factual determination based on the record in this case, and it presents no issue of general application.

Petitioners argue (Pet. 26-27) that the court of appeals should not have decided the harmless error question because it was not pressed by the government. The court of appeals, however, clearly has discretion to reach any issue presented by a case, even if it is not argued in the government's pleadings. The court of appeals' exercise of that discretion here does not warrant further review.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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DECEMBER 1991

☆ U. S. GOVERNMENT PRINTING OFFICE: 1991 312324 45199